

Gregg	McConnell	Specter
Hagel	Murkowski	Stevens
Hatch	Nelson (NE)	Sununu
Hutchison	Nickles	Talent
Inhofe	Santorum	Thomas
Kyl	Sessions	Voinovich
Lott	Shelby	Warner
Lugar	Smith	
McCain	Snowe	

NAYS—41

Akaka	Dayton	Lautenberg
Baucus	Dodd	Leahy
Bayh	Dorgan	Levin
Biden	Durbin	Mikulski
Bingaman	Edwards	Murray
Boxer	Feingold	Nelson (FL)
Breaux	Harkin	Pryor
Byrd	Hollings	Reed
Cantwell	Inouye	Reid
Carper	Jeffords	Rockefeller
Clinton	Johnson	Schumer
Conrad	Kennedy	Stabenow
Corzine	Kohl	Wyden
Daschle	Landrieu	

NOT VOTING—7

Graham (FL)	Lincoln	Sarbanes
Kerry	Miller	
Lieberman	Roberts	

The nomination was confirmed.

• Mrs. LINCOLN. Mr. President, due to an electronic failure, I was absent during the vote on the confirmation of Jeffrey Sutton to be a United States Circuit Judge for the Sixth Circuit Court of Appeals. Had I been present, I would have voted "no" on his confirmation. After reviewing Mr. Sutton's record, I was not confident he could fulfill his obligation as a Federal appellate court judge to follow established precedent, interpret the law and Constitution fairly, and treat all litigants before him without favor or bias. In my estimation, Mr. Sutton's proactive and consistent advocacy to limit Federal civil rights protections is incompatible with the temperament and detachment I look for in nominees being considered for a lifetime appointment. •

RECESS

The PRESIDING OFFICER. Under the previous order, the hour of 12:30 p.m. having passed, the Senate will stand in recess until the hour of 2:15 p.m.

Thereupon, the Senate, at 12:43 p.m., recessed until 2:16 p.m. and reassembled when called to order by the Presiding Officer (Mr. VOINOVICH).

Mr. REED. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HATCH. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

NOMINATION OF PRISCILLA OWEN TO BE UNITED STATES CIRCUIT JUDGE FOR THE FIFTH CIRCUIT

Mr. HATCH. Mr. President, I ask unanimous consent the Senate now resume consideration of the nomination of Priscilla Owen to be United States Circuit Judge for the Fifth Circuit.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The assistant legislative clerk read the nomination of Priscilla Richmond Owen, of Texas, to be United States Circuit Judge for the Fifth Circuit.

The PRESIDING OFFICER. Without objection, the Senator will proceed.

Mr. HATCH. Mr. President, I am pleased today to voice my strong support for the confirmation of Justice Priscilla Owen to the Fifth Circuit Court of Appeals. Justice Owen's nomination has been pending now for nearly 2 years—720 days in total, so I hope we can vote on it soon. Justice Owen is among the longest pending judicial nominees selected by President Bush. She was first nominated on May 9, 2001, so it is natural that we should move forward at this time.

I should say at the outset that I truly hope the news reports are inaccurate about another move by the other side to filibuster a well-qualified nominee and deny a vote by the full Senate. We know the usual liberal interest groups are crying for a filibuster, but we ought to do what the American people have sent us here to do, and vote.

I expressed a similar hope when Miguel Estrada's nomination reached the floor on February 5. Yet here we are 3 months and 4 cloture votes later and still he has not been allowed a vote.

We have 200 years of precedent for providing an up-or-down vote on judicial nominees and we should follow that.

If certain Senators do not like Priscilla Owen or Miguel Estrada, they ought to vote no. That is their right. But they ought to vote.

I fully support an open debate on Justice Owen's nomination. And we have had a number of debates already. I do not, however, support any filibuster on a circuit court nominee, or any judge for that matter, or, frankly, anybody on the Executive Calendar. I think in the past some of us voted against cloture on Executive Calendar nominees without realizing how important it is to not filibuster the President's nominees, whoever the President might be. I believe we have made those mistakes. And I believe I probably have. It is the wrong thing. But nobody has ever filibustered a circuit court of appeals nominee until Miguel Estrada. If they filibuster Priscilla Owen, that means two in 1 year in a procedure that has never before been used.

I fully support an open debate on Justice Owen's nomination. Like I say, we should not suffer through another filibuster. My colleagues on the other side of the aisle have already set a terrible partisan precedent in filibustering for the first time in history a circuit court nominee, Miguel Estrada. A simultaneous filibuster of two nominees would not only be unprecedented, but I think it would damage all three institutions even more. Let us have a full and open debate and then leave it

up to each Senator to decide for himself or herself by holding a simple up-or-down vote.

Let me now explain why I intend to vote yes on Justice Owen's nomination.

Justice Owen is a terrific selection for the Fifth Circuit Court of Appeals. She has the intelligence, the education, the experience, and the integrity we look for in a federal judge. A native of Texas, Justice Owen attended Baylor University and Baylor University School of Law. She graduated cum laude from both institutions and served as a member of Baylor's law review. In addition, she finished third in her law school class, which means that she is worthy of the appointment, something most lawyers can never dream about.

Justice Owen went on to earn the highest score on the Texas bar exam and thereafter accepted a position at the nationally ranked Houston law firm of Andrews & Kurth. She worked for the next 17 years as a commercial litigator with the firm, specializing in oil and gas matters and doing some work in securities and railroad issues.

Justice Owen has the full support of Senators HUTCHISON and CORNYN—both Senators from Texas—who know her well. Senator CORNYN has spoken in committee and on the Senate floor about his time working as a fellow Justice to Justice Owen on the Texas Supreme Court. Senator CORNYN has spoken to the criticism of Justice Owen's work on the bench and has made a strong case for Justice Owen's confirmation. I would commend Senator CORNYN's remarks regarding Justice Owen as worthy of the special attention of all my fellow Senators. Senator CORNYN's responses to criticisms of Justice Owen's judicial record are especially enlightening.

Former Texas Supreme Court Justices John L. Hill, Jack Hightower, and Raul Gonzalez—each of them a committed Democrat—also endorse Justice Owen. In particular, they note her impartiality and restraint on the bench. A group of 15 former Presidents of the Texas State Bar supports Justice Owen. This is no partisan group. They write: "Although we profess different party affiliations and span the spectrum of views of legal and policy issues, we stand united in affirming that Justice Owen is a truly unique and outstanding candidate for appointment to the Fifth Circuit."

I ask unanimous consent that a copy of this letter be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

HUGHES LUCE LLP,
Dallas, TX, July 15, 2002.

Hon. PATRICK LEAHY,
Chairman, Committee on the Judiciary, 224 Russell Senate Office Building, Washington, DC.

DEAR CHAIRMAN LEAHY: As past presidents of the State Bar of Texas, we join in this letter to strongly recommend an affirmative vote by the Judiciary Committee and confirmation by the full Senate for Justice Priscilla Owen, nominee to the United States Court of Appeals for the Fifth Circuit.